

ID: CCA-325903-13

Office:

UILC: 6511.00-00

Number: **201411029**

Release Date: 3/14/2014

From:

Sent: Monday, March 25, 2013 9:03 AM

To:

Cc:

Subject: Response to RE: Request for Guidance on 6511(a) --

We have reviewed the information provided and the relevant controlling law and conclude that the refund is limited to the sum of the two restricted interest payments made during the two year lookback period from the date the claim for refund (amended return) was filed. In *Little People's School, Inc. v. United States*, 842 F.2d 570 (1st Cir. 1988), and *Wachovia Bank, N.A. v. United States*, 455 F.3d 1261 (11th Cir. 2006) (the circuit to which appeal in this case would lie), taxpayer's attempted to make the same argument that the estate relies on here, namely that I.R.C. section 6511(a) does not restrict their refund because they were not "required to be filed". In each case, the Appellate court held that the reference to "taxpayer" in the clause "in respect of which tax the taxpayer is required to file a return" was a reference to taxpayers generally, not to a particular taxpayer. In other words "the taxpayer" is not a reference to a specific refund claimant only, but to taxpayers generally.

The total refund due is the \$. Refund of the rest is barred by the statute of limitations. The unpaid assessed tax can and should be abated - but the amount already remitted cannot be refunded by virtue of I.R.C. section 6511(a).